

**REMARKS:**

Claims 1-5, 8-19, and 22-28 are currently pending in the application. Claims 1-5, 8-19, and 22-28 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,629,128 to Graham W. Glass ("*Glass*").

Although the Applicants believe claims 1-5, 8-19, and 22-28 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 1, 11-13, 15, 25 and 27 to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants make no admission concerning the merits of the Examiner's rejection, and respectfully deny any statement or averment of the Examiner not specifically addressed. Particularly, the Applicants reserve the right to file additional claims in this Application or through a continuation patent application of substantially the same scope of originally filed claims 1-5, 8-19, and 22-28. No new matter has been added.

**TELEPHONE INTERVIEW WITH EXAMINER CHANG ON 4 JANUARY 2006:**

A telephone call was made by the undersigned to Examiner Sunray Chang on 4 January 2006 to request further clarification as to the Examiner's Final Office Action dated 16 November 2005. In particular, the Applicants requested clarification as to the difference between the Final Office Action dated 16 November 2005 and the previous Office Action dated 7 July 2005. The Applicants asserted that there appeared to be very little difference, if any, to the two Office Actions and in particular that appears that the Examiner has not properly considered the Applicants amendments and arguments submitted on 16 September 2005, in response to the Office Action dated 7 July 2005.

The distinctions between *Glass* and the subject Application were discussed, during the telephone interview in which Examiner Chang agreed to review a proposed Amendment after Final by email, prior to the Applicants submission to the Patent Office. In response, the Applicants emailed Examiner Chang a proposed Amendment after Final and thereafter reviewed the proposed Amendment after Final with Examiner Chang in a

telephonic interview on 13 January 2006. Examiner Chang recommended filing the proposed Amendment after Final as the Amendment after Final, of which the Applicants are submitting herewith.

**REJECTION UNDER 35 U.S.C. § 102(e):**

Claims 1-5, 8-19, and 22-28 stand rejected under 35 U.S.C. § 102(e) over *Glass*.

Although the Applicants believe claims 1-5, 8-19, and 22-28 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 1, 11-13, 15, 25 and 27 to more particularly point out and distinctly claim the Applicants invention. By making these amendments, the Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 102(e), as set forth in the Office Action.

The Applicants have reviewed *Glass* in detail, particularly looking for a component-based distributed software system and a method of providing data access in a component-based distributed software system, relied upon by the Examiner. However, *Glass* fails to disclose each and every limitation recited by claims 1-5, 8-19, and 22-28. Thus, the Applicants respectfully submit that claims 1-5, 8-19, and 22-28 patentably distinguish over *Glass*.

***Glass* Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Claims**

For example, with respect to amended independent claim 1, this claim recites:

***A component-based distributed software system***, comprising:  
***a first container comprising:***  
    ***at least one server component*** capable of having a client-server relationship with one or more client components;  
    ***one or more server objects*** having associated data and capable of being supported by the at least one server object; and  
    ***one or more client components*** which are local to the at least one server component; and  
***a second container comprising at least one proxy component, one or more proxy objects*** capable of being supported by the at least one server object, and ***one or more client components*** capable of

having a client-server relationship with one or more server components, the **one or more client components are remote and distributed from the at least one server component**, and operable to:

access data associated with one or more of the server objects such that whether the server component is local to or remote from the client component is substantially transparent to the client component;

**if the server component is local to the client component**, in order to access server object data, execute data access operations optimized for local communications; and

**if the server component is remote from the client component**, in order to access server object data, access at least one proxy component that is:

within the second container;

supporting one or more proxy objects each providing a local version of a corresponding server object: and

operable to:

provide the client component with access to data associated with a proxy object in response to the client component requesting data associated with the corresponding server object;

**execute data access operations optimized for remote communications** to access data associated with the corresponding server object; and

**substantially immediately reflect all changes to data associated with the proxy objects back to data associated with the corresponding server objects.** (Emphasis Added).

Independent claims 11-15 and 25-28 recite similar limitations. *Glass* fails to disclose each and every limitation of independent claims 11-15 and 25-28. The Applicants respectfully traverse the Examiners assertions regarding the subject matter disclosed in *Glass*.

The Applicants respectfully maintain that *Glass* has nothing to do with amended independent claim 1 limitations regarding a **component-based distributed software system, comprising a first container and a second container**. Rather *Glass* discloses a distributed processing computer system that is related to a remote proxy generator in a distributed processing computer system (Abstract).

The Applicants respectfully submit that the allegation in the present Office Action that *Glass* discloses all of the claimed features is respectfully traversed. Further, it is maintained that the Office Action provides no concise explanation as to how *Glass* is

considered to anticipate all of the limitations in amended independent claim 1. A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 **only if each and every element of a claimed invention is identically shown in that single reference**. MPEP § 2131. (Emphasis Added). Applicants respectfully point out that "it is incumbent upon the [E]xaminer to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." Ex parte Levy, 17 U.S.P.Q.2d (BNA) 1461, 1462 (Pat. & Tm. Off. Bd. Pat. App. & Int. 1990). The Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of anticipation in amended independent claim 1 under 35 U.S.C. § 102 with respect to *Glass* because *Glass* fails to identically disclose each and every element of the Applicants claimed invention, arranged as they are in Applicants claim.

The Applicants further maintains that the Examiner has misdescribed the distributed processing computer system disclosed in *Glass*. For example, the Examiner equates the "**server component**" recited in amended independent claim 1 with the server system 12 and subject object 18 disclosed in *Glass*. In addition, the Examiner equates the "**first container**" recited in amended independent claim 1 with the server system 12 disclosed in *Glass*. (16 November 2005 Office Action, Page 3). The Applicants respectfully traverse the Examiner's assertions regarding the equation made by the Examiner. *Glass* does not disclose, teach or suggest **a server object or a server component within a first container**. Rather *Glass* merely discloses a subject object 18 within a server system 12. *Glass* does not disclose **a first container comprising: at least one server component** capable of having a client-server relationship with one or more client components; **one or more server objects** having associated data and capable of being supported by the at least one server object; and **one or more client components** which are local to the at least one server component.

In fact, the Office Action alleges that both the server system 12 and the subject object 18 of *Glass* are somehow representative of the server component of the Applicants invention. The Applicants respectfully disagree. *Glass* cannot provide for a server component that supports one or more server objects, within a first container, since the server system 12 of *Glass* cannot be both a server component and a first

container. Thus, the Applicants respectfully submit that the equations forming the foundation of the Examiner's comparison between *Glass* and amended independent claim 1 cannot be made. The Applicants further respectfully submit that these distinctions alone are sufficient to patentably distinguish amended independent claim 1 from *Glass*.

In another example, the Examiner equates the "***client component***" recited in amended independent claim 1 with the client system 14 and local object 20 disclosed in *Glass*. In addition, the Examiner equates the "***second container***" recited in amended independent claim 1, again, with the client system 14 disclosed in *Glass*. (16 November 2005 Office Action, Page 3). *Glass* does not disclose, teach or suggest ***a client object or a client component within a second container***. Rather *Glass* merely discloses a local object 20 within a client system 14. *Glass* does not disclose ***a second container comprising at least one proxy component, one or more proxy objects*** capable of being supported by the at least one server object, and ***one or more client components*** capable of having a client-server relationship with one or more server components, the ***one or more client components are remote and distributed from the at least one server component***.

In fact, the Office Action alleges that both the client system 14 and the local object 20 of *Glass* are somehow representative of the client component of the Applicants invention. The Applicants respectfully disagree. *Glass* cannot provide for a client component within a second container, since the client system 14 of *Glass* cannot be both a client component and a second container. Thus, the Applicants respectfully submit that the equations forming the foundation of the Examiner's comparison between *Glass* and amended independent claim 1 cannot be made. The Applicants further respectfully submit that these distinctions alone are sufficient to patentably distinguish amended independent claim 1 from *Glass*.

In still another example, the Examiner asserts that *Glass* includes a "scheme makes the server objects transparent to both remote and local client component." (16 November 2005 Office Action, Page 3). ***The Applicants do not understand what***

***“scheme” the Examiner is referring to and respectfully requests further explanation from the Examiner.*** The Applicants further submit that amended independent claim 1 does not include the subject phrase “scheme” and do not understand why the Examiner is asserting the subject phrase.

The Applicants further submit that *Glass* does not disclose a server component that is substantially transparent to a client component whether the server component is local to or remote from the client component. The Applicants direct the Examiner’s attention to the cited text of *Glass*, relied upon by the Examiner, which states:

Remote proxies also hide the location of the subject object from the requesting local object. Therefore, any local object can assume, from an access point of view, that any object it needs is local. ***Local object 20 communicates with remote proxy object 22 which then communicates with subject object 18 via distributed object management system 16.*** By doing this, local object 20 is unconcerned with the location of subject object 18. (Column 6, Lines 27-34). (Emphasis Added).

Although *Glass* discloses that local object 20 is unconcerned with the location of subject object 18, *Glass* does not disclose, teach, or suggest that ***a server component that supports one or more server objects, within a first container is substantially transparent to a client component within a second container.*** Rather the above cited text of *Glass* makes clear that although local object 20 is unconcerned with the location of subject object 18, client system 14 is very concerned with the location of subject object 18. In fact, remote proxy object 22 contained in client system 14 communicates with subject object 18 of server system 12 via the distributed object management system 16. Furthermore, distributed object management system 16 provides the communication link between server system 12 and client system 14 and ***is aware*** of whether server system 12 is local or remote with client system 14 thereby making client system 14 aware of the location of server system 12. Thus, ***Glass cannot provide a server component that supports one or more server objects, within a first container that is substantially transparent to a client component within a second container, since Glass’s server system 12 is in no way transparent to client system 14.***

The Applicants respectfully submit that the Examiner is using the subject Application as a template to formulate reconstructive hindsight to reach this conclusion and reconstructive hindsight is improper under 35 U.S.C. § 102. The Applicants further submit that *Glass* does not teach, suggest, or even hint at **a component-based distributed software system comprising a first container comprising: (1) at least one server component** capable of having a client-server relationship with one or more client components, **one or more server objects** having associated data and capable of being supported by the at least one server object, and **one or more client components** which are local to the at least one server component or (2) **a second container comprising at least one proxy component, one or more proxy objects** capable of being supported by the at least one server object, and **one or more client components** capable of having a client-server relationship with one or more server components, the **one or more client components are remote and distributed from the at least one server component**. Thus, the Office Action has failed to establish a *prima facie* case of anticipation in amended independent claim 1 under 35 U.S.C. § 102 with respect to *Glass* because *Glass* fails to identically disclose each and every element of amended independent claim 1, arranged as they are in Applicants claim.

The Applicants further submit that *Glass* does not disclose, teach or suggest the optimization technique disclosed in the claimed invention of synchronizing between proxy objects and their corresponding server objects in order to execute data access operations for remote or local communications. For example, the Examiner asserts that *Glass* discloses system optimization including reducing requirements, minimize compile and load time, optimize system performance. (7 July 2005 Office Action, Page 16). The Applicants respectfully traverse the Examiner's assertions regarding the optimization in *Glass*. *Glass* does not disclose, teach or suggest the optimization technique disclosed in the claimed invention of **synchronizing between proxy objects and their corresponding server objects in order to execute data access operations for remote or local communications**.

Thus, the allegation in the present Office Action that *Glass* discloses all of the claimed features is respectfully traversed. Further, it is noted that the Office Action

provides no concise explanation as to how *Glass* is considered to anticipate all of the limitations in amended independent claim 1. A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if each and every element of a claimed invention is identically shown in that single reference. MPEP § 2131. Applicants respectfully point out that "it is incumbent upon the [E]xaminer to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 U.S.P.Q.2d (BNA) 1461, 1462 (Pat. & Tm. Off. Bd. Pat. App. & Int. 1990). The Applicants respectfully submit that the Office Action has failed to establish a prima facie case of anticipation in amended independent claim 1 under 35 U.S.C. § 102 with respect to *Glass* because *Glass* fails to identically disclose every element of the Applicants claimed invention, arranged as they are in Applicants claim.

### **The Applicants Claims are Patentable over *Glass***

With respect to independent claims 11-15 and 25-28 each of these claims include limitations similar to those discussed above in connection with amended independent claim 1. Thus, independent claims 11-15 and 25-28 are considered patentably distinguishable over *Glass* for at least the reasons discussed above in connection with amended independent claim 1. Furthermore, dependent claims 2-5 and 8-10 which depend from amended independent claim 1 and dependent claims 16-19 and 22-24 which depend from amended independent claim 15 are also considered patentably distinguishable over *Glass*. Thus, dependent claims 2-5, 8-10, 16-19, and 22-24 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

Thus, for at least the reasons set forth herein, the Applicants respectfully submit that claims 1-5, 8-19, and 22-28 are not anticipated by *Glass*. The Applicants further submit that claims 1-5, 8-19, and 22-28 are in condition for allowance. Thus, the Applicants respectfully request that the rejection of claims 1-5, 8-19, and 22-28 under 35 U.S.C. § 102(e) be reconsidered and that claims 1-5, 8-19, and 22-28 be allowed.



## **THE LEGAL STANDARD FOR ANTICIPATION REJECTIONS UNDER 35 U.S.C. § 102:**

The following sets forth the legal standards for "anticipation."

The events that can lead to anticipation can be divided into the following seven categories, all defined by statute:

1. Prior Knowledge: The invention was publicly known in the United States before the patentee invented it.

2. Prior Use: The invention was publicly used in the United States either (i) before the patentee invented it; or (ii) more than one year before he filed his patent application.

3. Prior Publication: The invention was described in a printed publication anywhere in the world either (i) before the patentee invented it; or (ii) more than one year before he filed his patent application.

4. Prior Patent: The invention was patented in another patent anywhere in the world either (i) before the patentee invented it; or (ii) more than one year before he filed his application.

5. On Sale: The invention was on sale in the United States more than one year before the patentee filed his application.

6. Prior Invention: The invention was invented by another person in the United States before the patentee invented it, and that other person did not abandon, suppress or conceal the invention.

7. Prior U.S. Patent: The invention was described in a patent granted on a patent application filed in the United States before the patentee made the invention.

Each of those seven events has its own particular requirements, but they all have the following requirements in common:

1. Anticipation must be shown by clear and convincing evidence.
2. If one prior art reference completely embodies the same process or product as any claim, the product or process of that claim is anticipated by the prior art, and that claim is invalid. To decide whether anticipation exists, one must consider each of the elements recited in the claim and determine whether all of them are found in the particular item alleged to be anticipating prior art.
3. There is no anticipation unless every one of those elements is found in a *single* prior publication, prior public use, prior invention, prior patent, prior knowledge or prior sale. One may not combine two or more items of prior art to make out an anticipation. One should, however, take into consideration, not only what is expressly disclosed or embodied in the particular item of prior art, but also what inherently occurred in its practice.
4. There cannot be an accidental or unrecognized anticipation. A prior duplication of the claimed invention that was accidental, or unrecognized, unappreciated, and incidental to some other purpose is not an invalidating anticipation.

Those four requirements must be kept in mind and applied to each kind of anticipation in issue. The following additional requirements apply to some categories of anticipation.

1. Prior Knowledge: An invention is anticipated if it was known by others in the United States before it was invented by the patentee. "Known," in this context, means known to the public. Private knowledge, secret knowledge or knowledge confined to a small, limited group is not necessarily an invalidating anticipation. Things that were known to the public only outside the United States are not invalidating anticipation.

2. Prior Use: An invention is anticipated if it was used by others before it was invented by the patentee, or more than one year before the patentee filed his patent application. "Use," in this context, means a public use.

3. Prior Publication: A patent is invalid if the invention defined by the Claims was described in a printed publication before it was invented by the patentee or more than one year prior to the filing date of his application. For a publication to constitute an anticipation of an invention, it must be capable, when taken in conjunction with the knowledge of people of ordinary skill in the art, of placing the invention in the possession of the reader. The disclosure must be enabling and meaningful. In determining whether the disclosure is complete, enabling, and meaningful, one should take into account what would have been within the knowledge of a person of ordinary skill in the art at the time, and one may consider other publications that shed light on the knowledge such a person would have had.

4. Prior Patent: If the invention defined by the claims was patented in the United States or a foreign country, either before it was invented by the inventor or more than one year before the inventor filed his patent application, then the invention was anticipated. The effective date for this type of anticipation is the date on which two things co-existed: (i) the owner of the referenced patent had the right to enforce that patent; and (ii) the reference patent was available to the public. What was "patented" in the reference patent is determined by what is defined by its claims, interpreted in the light of the general description.

5. On Sale: A patent is invalid if the invention claimed in it was on sale in the United States more than one year prior to the application filing date.

6. Prior Invention: If the invention defined by the claims was invented by another person, in the United States, before it was invented by the inventor, and that other person did not abandon, suppress, or conceal the invention, the invention lacks novelty. A prior invention, even if put in physical form and shown to produce the desired result, is not an invalidating anticipation unless some steps were taken to make it public. However, it is not necessary that the inventor had knowledge of that prior invention.

7. Prior U.S. Application: A patent is invalid for lack of novelty if the invention defined by the claims was described in a United States patent issued on a patent application filed by another person before the invention was made by the inventor. The

effective date of a prior application for purposes of this issue is the date on which it was filed in the United States. Foreign-filed patent applications do not apply. If the issued United States patent claims the benefit of more than one United States application, its effective date as an anticipation is the filing date of the first United States application that discloses the invention claimed in that referenced patent.

Experimental Use Exception: The law recognizes that it is beneficial to permit the inventor the time and opportunity to develop his invention. As such there is an "experimental use" exception to the "public use" and "on sale" rules. Even though the invention was publicly used or on sale, more than one year prior to the application filing date, that does not invalidate the patent, provided the principal purpose was experimentation rather than commercial benefit. If the primary purpose was experimental, it does not matter that the public used the invention or that the inventor incidentally derived profit from it.

When a public use or sale is shown, the burden is on the inventor to come forward with evidence to support the experimental use exception. Only experimentation by or under the control of the inventor qualifies for this exception. Experimentation by a third party, for its own purposes, does not qualify for this exception. Once the invention leaves the inventor's control, its use is a public one, even if further experimentation takes place.

The experimentation must relate to the claimed features of the invention. And it must be for the purpose of technological improvement, not commercial exploitation. If any commercial exploitation does occur, it must be merely incidental to the primary purpose of experimentation. A test done primarily for marketing, and only incidentally for technological improvement, is a public use.

**CONCLUSION:**

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicant believes no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

**Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.**

Respectfully submitted,

1/16/06  
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